



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 2754-98
9 December 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, and applicable statutes, regulations and policies. The Board was unable to obtain your service record and conducted its review of your case based on the decisional document prepared by the Naval Discharge Review Board.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Marine Corps on 13 February 1984 in the grade of SSGT (E-6). The record shows that you had completed about eight years of service on a prior enlistments. Following two instances of driving under the influence of alcohol, you were evaluated by a medical officer and were determined to be an "episodic alcoholic". Subsequently, you were hospitalized in an alcohol rehabilitation program from 26 August 1985 until 18 October 1985. The record shows that you were evaluated on 10 December 1985 and it was noted that you continued to drink heavily and the prognosis was poor.

On 2 July 1986, a competency review board found that you were incompetent because of drug abuse and administratively reduced you from SSGT to SGT (E-5). According to the NDRB decisional document nothing else happened until 5 December 1986. On that date you received nonjudicial punishment for use of cocaine. The punishment imposed included forfeiture of pay totaling \$988 and a reduction in rank from SGT to CPL (E-4). Subsequently, you were processed for discharge by reason of misconduct with a discharge under other than honorable conditions. The NDRB indicated that

the discharge processing documentation was not filed in the record when the decisional document was prepared. However, the Board was aware that a staff judge advocate would have reviewed the discharge package and found it to be sufficient in law and fact before it reached the commanding general for a decision in your case. You were discharged under other than honorable conditions on 7 April 1987.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service and your desire for a recharacterized discharge so that you can obtain drug and alcohol rehabilitation from the Department of Veterans Affairs. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your use of cocaine. The Board noted that you told the NDRB that you deliberately used cocaine so that you could be discharged from the Marine Corps. Given the evidence which showed willful misconduct, the Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you are eligible for benefits administered by the Department of Veterans Affairs (DVA) based on your prior honorable service. Therefore, if you have been denied benefits based on that prior honorable service, you should appeal that denial under procedures established by the DVA.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director